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5 Attorneys for Defendants:  
 Martin Lettunich, Stefan Matan

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7 **IN THE UNITED STATES DISTRICT COURT**  
 8 **NORTHEN DISTRICT OF CALIFORNIA**

9 XS Holding B.V., derivatively on behalf of Xslent  
 Technologies, LLC and XET Holding Co., LLC,  
 10 and separately on its own behalf

**Case No. C08 02282 (RMW)**

**NOTICE OF MOTION AND  
 MOTION TO DISMISS THIS  
 ACTION FOR LACK OF  
 DIVERSITY JURISDICTION AND  
 FAILURE TO NAME  
 INDISPENSABLE PARTIES  
 [Fed.R.Civ.P. rule 12(b)(1),(7).]**

11 Plaintiff,

12 v.

13 COOL EARTH SOLAR, INC., a Delaware  
 14 corporation; ROB LAMKIN, an individual;  
 LAWRENCE ASUNCION, an individual;  
 15 SOLAR COMPONENTS LLC, a Delaware  
 limited liability company; NATHAN  
 16 SCHULHOF, an individual; M. JAMES  
 BULLEN, an individual; MARTIN N.  
 17 LETTUNICH, an individual; STEFAN MATAN,  
 an individual; and XSLENT, LLC, a Nevada  
 18 limited liability company and ATIRA  
 TECHNOLOGIES, LLC, a Nevada limited  
 19 liability company;

Date: July 25, 2008  
 Time: 9:00 a.m.  
 The Hon. Ronald M. Whyte

20 Defendants.

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22 NOTICE IS HEREBY GIVEN:

23 On July 25, 2008, at 9:00 a.m. before the Hon. Ronald M. Whyte, Defendants Martin Lettunich  
 and Stefan Matan will move this Court for an Order dismissing this action pursuant to Federal  
 24 Rules of Civil Procedure, rule 12(b)(1) for lack of jurisdiction and pursuant to Federal Rules of  
 Civil Procedure, rule 12(b)(7) and rule 19 for failing to name indispensable parties.

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 26 This motion is based upon this notice of motion, the accompanying memorandum of  
 27 points and authorities, declaration of Jacqueline deSouza, declaration of Martin Lettunich, and  
 28 request for judicial notice, filed concurrently; upon such additional documents as may be filed on

1 this motion and in this action; and upon such oral evidence and argument as may be introduced at  
2 the hearing on this motion.

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4 Dated: May 22, 2008

DESOUZA LAW OFFICES, PC

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6 By: \_\_\_\_\_  
7 Jacqueline deSouza  
8 Attorneys for Defendants Martin Lettunich  
9 and Stefan Matan

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